

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2014-346-WS**

IN RE:	)	
	)	RESPONSE TO ORS ANSWER TO
Application of Daufuskie Island Utility	)	MOTION FOR REONCISDERATION
Company, Inc. for Approval of an	)	OF DIRECTIVE 2018-208
Adjustment for Water and Sewer Rates,	)	
Terms and Conditions.	)	
_____	)	

On April 4, 2018, the Applicant, Daufuskie Island Utility Company, Inc. (“DIUC”), filed a Motion for Reconsideration of Commission Directive 2018-208 wherein the Commission deferred ruling on DIUC’s request that it be permitted to release the Letter of Credit (“LOC”) obtained by DIUC shareholder Terry Lee to assist DIUC in securing a bond renewal when DIUC was collecting rates pending the outcome of its appeal of Commission Order 2015-846.

In response to the Motion to Reconsider, ORS filed an Answer. Via Directive 2018-274 the Commission instructed DIUC to file this Response to the ORS Answer which questions DIUC’s position regarding refunds provided customers and DIUC’s plans to address refunds that may be due to former customers.

Following the Commission’s decision on remand, DIUC provided refunds to its current customers in its January 2018 billing. DIUC has provided specific information to ORS regarding how those refunds and applicable interest were calculated. DIUC’s January 16, 2018, Letter to Hon. Jocelyn Boyd (copy filed in the Docket of this proceeding) includes a lengthy letter from John F. Guastella with Appendices. Mr. Guastella’s letter provides a detailed explanation of how DIUC arrived at the percentage refund amounts. Appendix A shows the pre-interest refund

percentages between the July 1, 2016 rates and the January 1, 2018 rates. Appendix B shows the specific availability rates and refunds, including interest, for all availability customers who were billed for 6, 5, 4, 3, 2 or 1 quarter(s). Appendix C shows the detailed calculation of the interest for customers that were billed for 6, 5, 4, 3, 2, or 1 quarter(s). These refunds have already been made.

Regarding refunds due to former customers of DIUC, ORS has raised the applicability of the Uniform Unclaimed Property Act” (S.C. Code Ann. Section 27-18-90(B)). However, by its terms, Section 27-18-90(B) does not require any immediate action from DIUC. The Section applies to refunds that have “remained unclaimed by the person appearing on the records of the utility entitled thereto for more than five years after the date it became payable in accordance with the final determination or order providing for the refund is presumed abandoned.”

It is accurate to state that DIUC has not yet paid refunds to its former customers who terminated service during the process of this proceeding, but that is not an oversight. DIUC does plan to calculate then make refunds to former account owners. It will be a time consuming and expensive process for DIUC to identify its former customers, when they ceased service, and then to individually calculate any refunds due. After that, a refund check would be mailed to the most recent address or forwarding address provided by the customer. Many of those checks will be delayed, returned and/or lost. If DIUC engages in that process now and then there is an appeal that alters the refunds due, it will have exposed the ratepayer to unnecessary administrative costs. Additionally, if refunds are made to former customers at the amounts currently calculated and final water and sewer rates turn out to be higher than currently approved, there would be no opportunity for DIUC to collect overpayments of refunds from those individuals. Sending these refund payments now would subject DIUC’s ratepayers to risk that is unnecessary at this time.

When DIUC reports it has provided the refunds that the bonds were intended to protect, it is correct. In the Application that initiated this proceeding, DIUC sought a 108.9% increase in its rates. Commission Order 2015-846 allowed DIUC an approximately 43% increase in its rates. DIUC appealed and sought to implement its requested rates under bond pursuant to S.C. Code Ann. § 58-5-240 pending appeal. The Commission approved bonds that protected ratepayers in the event that DIUC collected the 108.9% but was unable to pay it back in a loss on appeal. *See* Commission Order 2016-156 dated March 1, 2016, and Order 2017-402(A) dated June 30, 2017. As explained by S.C. Code Ann. § 58-5-240(D), the purpose of such bonds is to protect the persons who may be “entitled to the amount of the excess” rates collected should a court approve the Commission’s findings. DIUC has made those refunds. The small amount of potential refunds due to former customers is not of a total amount such that DIUC cannot cover the repayments. There is no bonding necessary. DIUC is now charging rates which are authorized by the Order on Rehearing. The current rates are not subject to refund or any requirement of a bond; as such, DIUC requested the bonds be released.

It was certainly not DIUC’s intention to present any information to this Commission that would be considered as mischaracterization or that would be considered in any way suspect. DIUC has been and remains committed to cooperating with ORS by providing the information necessary for ORS to understand the refunds at issue in this case.

WHEREFORE, DIUC respectfully requests this Commission enter an order finding that DIUC is no longer collecting rates pursuant to the bonds issued per Commission Orders 2016-156 and 2017-402(A) and that the surety may therefore release the bonds. Releasing the bonds would also release certain funds provided by one of DIUC’s Owners, Mr. Terry Lee, in conjunction with the issuance of those bonds.

Respectfully submitted,

/s/ Thomas P. Gressette, Jr.

**Thomas P. Gressette, Jr.**

Direct: (843)-727-2249

Email: [Gressette@WGFLAW.com](mailto:Gressette@WGFLAW.com)

**G. Trenholm Walker**

Direct: (843)-727-2208

Email: [Walker@WGFLAW.com](mailto:Walker@WGFLAW.com)

**WALKER GRESSETTE FREEMAN & LINTON, LLC**

Mail: PO Box 22167, Charleston, SC 29413

Office: 66 Hasell Street, Charleston, SC 29401

Phone: 843-727-2200

April 12, 2018  
Charleston, South Carolina

#### **CERTIFICATE OF SERVICE**

This is to certify that on April 12, 2018, I caused to be served upon the counsel of record named below a copy of the foregoing RESPONSE TO ORS ANSWER TO MOTION FOR RECONSIDERATION OF DIRECTIVE 2018-208 electronic mail, as indicated.

Standing Hearing Office David Butler ([David.Butler@psc.sc.gov](mailto:David.Butler@psc.sc.gov))

Andrew M. Bateman, Esq. ([abateman@regstaff.sc.gov](mailto:abateman@regstaff.sc.gov))

Jeff Nelson, Esq. ([jnelson@regstaff.sc.gov](mailto:jnelson@regstaff.sc.gov))

John J. Pringle, Jr., Esq. ([jack.pringle@arlaw.com](mailto:jack.pringle@arlaw.com))

John F. Beach, Esq. ([john.beach@arlaw.com](mailto:john.beach@arlaw.com))